

REMARKS

Summary of the Office Action

Claims 1-4, 6-14, and 17-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,438,228 to Couture et al. ("*Couture*") in view of WO 01/54939 A to Heinen ("*Heinen*").

Summary of the Response to the Office Action

Applicant traverses the rejections. Accordingly, claims 1-4, 6-14, and 17-20 are presently pending.

The Rejections under 35 U.S.C. § 103(a)

Claims 1-4, 6-14, and 17-20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Couture* in view of *Heinen*. Applicant notes that both references were of record when a Notice of Allowance issued for this application on November 15, 2007. Applicant respectfully traverses the rejections for at least the following reasons.

Independent claim 1 recites a traction assembly which "has a traction ratio, defined as the arm of the torque divided by the first radius, which is larger than 0.57." It was confirmed in the Office Action that *Couture* lacks the teaching of a traction ratio larger than 0.57. In fact, *Couture* lacks any teaching of the traction ratio as defined in the current application.

In the Office Action, the Examiner refers to page 9, line 31 – page 10, line 6 of *Heinen* (inserted below), arguing that based upon the teaching of *Heinen*, the current invention would have been obvious.

Figure 1 shows the wheel 1 according to the invention. In the figure the wheel is provided with a tyre 2, which can be used in several em-

bodiments. The tyre may for instance be a full rubber tyre for use in low speed vehicles such as tractors, fork lift trucks or other types of vehicles for cargo transport. The wheel diameter will preferably be approximately 800 mm. The tyre may also be designed as air pressure type for use in medium speed vehicles such as for instance city taxis and medium heavy cargo transport in urban areas.

It is evident that this part of the description only refers to a wheel diameter of 800 mm. It does not refer to a low thickness of the tire. Moreover, it does not even remotely refer to the traction ratio, as recited in independent claim 1. In fact, *Heinen* does not refer to the invention of the current application. Accordingly, even if it were proper to combine *Couture* and *Heinen*, which it is not, the combination would not include each of the recitations of independent claim 1. For at least this reason, the rejection of independent claim 1 and each of its dependent claims should be withdrawn.

Moreover, it is not proper to combine *Couture* and *Heinen* to produce the invention recited in independent claim 1. Just experimenting with the traction ratio in order to find out that a larger driving ratio leads to a more efficient drive first requires the insight that such ratio defined in claim 1 is significant. There is nothing in *Heinen* that indicates that the ratio influences the efficiency—let alone that this ratio should be in the claimed range.

The Office Action alleges that the claimed invention would have been obvious because “[o]ne of ordinary skill in the art would as a routine action assembl[e] known drive units with all kinds of tires.” Applicant respectfully disagrees. In view of the complex construction of the wheel, it is not simple to just build various prototypes and test all these prototypes under the

same circumstances. Those prototypes would require making the distance between air gap and rim as small as possible, and selecting a tire which is as flat as possible. As mentioned, there is no indication in *Heinen* that this would have been beneficial.

The Examiner further suggests that finding the current driving ratio would, based upon the knowledge in *Heinen*, mean just testing some different tires and see whether this has an effect. The examiner's suggestion (as it is not in the prior art itself) assumes that numerous suitable tires were available for a particular diameter wheel-hub motor, which is not the case. Moreover, as mentioned before, there would have been no incentive to perform the testing. In fact, testing requires more than just varying the tires. And even if the tires were varied, it still means that a skilled person needs an incentive to try various thicknesses, measure the efficiency of all these various embodiments, and come to the conclusion that the claimed ratio is significant. In order to do all these experiments, the skilled person should have an incentive. *Heinen* does not provide this incentive. Rather, the rejection proposes several steps beyond the disclosures of *Couture* and *Heinen* to generate the invention set forth in independent claim 1, which indicates an impermissible hindsight reconstruction of the invention.

Thus, the argument that the invention, in view of *Couture* and *Heinen*, would be obvious to one having ordinary skill in the art is not justified.

For at least the reasons above, Applicant submits that claim 1 is allowable. Further, Applicant asserts that claims 2-4, 6-14, and 17-20 are allowable at least because of their dependency from independent claim 1 and the reasons set forth above.

CONCLUSION

In view of the foregoing, Applicant respectfully requests reconsideration of the

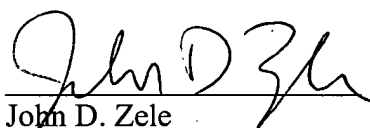
application and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of the response; the Examiner is invited to contact the Applicant's undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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Dated: November 25, 2008

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